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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Tsuneo TAKAHASHI et al. Confirmation No. 1333

Serial No. 09/786,442 GROUP 1647

Filed March 5, 2001 Examiner R. Landsman

NOVEL RECEPTOR PROTEIN AND METHOD FOR THE DIAGNOSIS OF AN INFLAMMATORY DISEASE BY USING THE SAME

RESPONSE

Commissioner for Patents

Washington, D.C. 20231

Sir:

Responsive to the determination of lack of unity set forth in the Official Action of September 30, 2002, applicants hereby provisionally elect Group I, claims 1-11 and 23, with traverse. The grounds for traverse are as follows:

The same claims as pending in the present national stage application were subject to examination during the international phase of the PCT application. While it is true that the claims of the present application have been amended, the changes in the claims merely place this national stage application in the same condition as it was during the international phase, with the exception that the multiple dependent claims were amended to reflect preferred United States patent practice.

Applicants note that the international Examiner found no lack of unity, applying the same legal standards to the same facts. Applicants respectfully submit that the United States Patent Office cannot now contend that examination of the pending claims in the present application would pose an undue searching burden. Indeed, the U.S. Examiner has the considerable benefit of the search results generated by the international Examiner, on the basis of the pending claims.

In fact, the Official Action does not explain why, applying the identical legal standards to the identical claims, the opposite result is now being reached in the present U.S. national phase application, relative to the international application.

In addition, applicants respectfully submit that the Official Action does not comply with the requirements of PCT Rules 13.1 and 13.2. Specifically, the definition of "special technical feature" in PCT Rule 13.2 is art-based. Thus, a proper lack of unity determination would require a citation of a reference showing the special technical feature exhibited by the present claims. No such citation having been made, the lack of unity determination is improper as a matter of law.

In light of the above discussion, therefore, it is believed that applicants are entitled to an action on the merits

of all of the pending claims, in their full scope, in the present application. Such action is accordingly respectfully requested.

Respectfully submitted,

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